

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
★ JAN 20 2016 ★

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CITY OF NEW YORK,

Plaintiff,

- against -

THAER NIMER KHASHMAN,

Defendant.
----- X

BROOKLYN OFFICE

MEMORANDUM & ORDER

: 15 Civ. 5089 (AMD) (ST)
:
:

ANN DONNELLY, District Judge.

On September 1, 2015, the City of New York brought this action for violations of the Contraband Cigarette Trafficking Act, 18 U.S.C. § 2341 *et seq.* (CCTA), and the Racketeer Influenced Corrupt Organizations Act, 18 U.S.C. § 1961 *et seq.* (RICO), in connection with the defendant's sale in New York of unstamped cigarettes, allegedly purchased in Virginia at a lower tax rate. The plaintiff seeks to enjoin the defendant from violating the CCTA, and seeks lost tax revenue and treble damages pursuant to RICO. After the Clerk of the Court noted the default of the defendant, (ECF No 16), and the plaintiff moved for default judgment on April 7, 2016, (ECF No. 17), I referred this matter to United States Magistrate Judge Steven Tiscione for a recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded. Judge Tiscione held a damages inquest on August 9, 2016. (ECF No. 36.)

On December 23, 2016, Judge Tiscione issued a thorough report recommending that I enter a default judgment against the defendant, and that the defendant be enjoined from violating

the CCTA. Additionally, Judge Tiscione recommended that the plaintiff be awarded the unpaid taxes at a rate of \$15 per carton on the 53,040 cartons that the defendant transported from Virginia to New York, totaling \$795,600, and that, as a consequence of the violation of the RICO statute, the City be awarded treble damages. 18 U.S.C. § 1964(c). Judge Tiscione recommended a total award in the amount of \$2,386,800. (ECF No. 37.)

In reviewing a report and recommendation, the court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). To accept a report and recommendation to which there was no objection, the district court need only find that there was no clear error. *White v. W. Beef Properties, Inc.*, No. 07-cv-2345-RJD-JMA, 2011 WL 6140512, at *2 (E.D.N.Y. Dec. 9, 2011).

I have reviewed the complaint and the transcript of the damages inquest, in addition to Judge Tiscione’s report and recommendation. I find that it is well-reasoned and thorough, without any factual or legal errors. Thus, I adopt the report and recommendation in its entirety.

Accordingly, Judge Tiscione’s Report and Recommendation is adopted in its entirety; the defendant is enjoined from violating the Contraband Cigarette Trafficking Act, 18 U.S.C. § 2341 *et seq*; and a default judgment is entered against the defendant. The Clerk of the Court is respectfully directed to enter judgment against the defendant for the amount of \$2,386,800.

SO ORDERED.

s/Ann M. Donnelly

Ann M. Donnelly
United States District Judge

Dated: Brooklyn, New York
January 20, 2017